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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-980

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review, and Rescission of Review, in Part; 2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the People's Republic of China (China). The period of review (POR) is January 1, 2015, through December 31, 2015.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, Commerce issued a countervailing duty (CVD) order on solar cells from China.<sup>1</sup> Several interested parties requested that Commerce conduct an administrative review of the CVD order, and on February 13, 2017, Commerce published in the *Federal*

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<sup>1</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012) (*Order*).

*Register* a notice of initiation of an administrative review of the *Order* for 54 producers/exporters for the POR.<sup>2</sup>

### Scope of the Order

The merchandise subject to the *Order* is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels, and building integrated materials. For a complete description of the scope of this administrative review, *see* the Preliminary Decision Memorandum.<sup>3</sup>

### Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. This review was initiated on February 13, 2017. Between January 30, 2017, and May 15, 2017, we received timely withdrawals of the requests for review, for which no other parties requested a review, for the following companies: Yingli Green Energy Holding Company Limited;<sup>4</sup> BYD (Shangluo) Industrial Co., Ltd., and Shanghai BYD Co., Ltd.<sup>5</sup> Therefore, because there are no remaining requests to review these three companies, in accordance with 19 CFR 351.213(d)(1), and

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<sup>2</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 10457 (February 13, 2017) (*Initiation Notice*).

<sup>3</sup> *See* Memorandum, “Decision Memorandum for Preliminary Results of the of the Countervailing Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China; 2015,” (Preliminary Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

<sup>4</sup> *See* Letter from the petitioner, “Certain Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Partial Withdrawal Request for Administrative Review,” dated January 30, 2017; and Letter from Yingli, “Countervailing Duty Order on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules: Yingli’s Withdrawal of Request for Administrative Review,” dated May 15, 2017.

<sup>5</sup> *See* Letter from the petitioner, “Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Withdrawal of Administrative Review Request,” dated (May 15, 2017), and Letter from Shanghai BYD, “Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, from the People’s Republic of China: Withdrawal Notice of Shanghai BYD and Shangluo BYD,” dated May 15, 2017.

consistent with our practice, we are rescinding this review with respect to the three aforementioned companies.

### Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy, (*i.e.*, a financial contribution from an authority that gives rise to a benefit to the recipient) and that the subsidy is specific.<sup>6</sup> In making this preliminary determination, Commerce relied, in part, on facts otherwise available, with the application of adverse inferences.<sup>7</sup> For further information, see “Use of Facts Otherwise Available and Application of Adverse Inferences” in the accompanying Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided at Appendix I to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

### Preliminary Results of Review

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<sup>6</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>7</sup> See section 776(a) of the Act.

As a result of this review, we preliminarily determine the countervailable subsidy rates to be:

<b>Company</b>	<b>Subsidy Rate (percent)</b>
Canadian Solar Inc. and its Cross-Owned Affiliates <sup>8</sup>	13.72
Changzhou Trina Solar Energy Co., Ltd. and its Cross-Owned Affiliates <sup>9</sup>	10.93
Non-Selected Companies Under Review <sup>10</sup>	12.64

Preliminary Rate for Non-Selected Companies Under Review

The statute and Commerce’s regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(i) of the Act instructs Commerce, as a general rule, to calculate an all others rate using the weighted average of the subsidy weights established for the producers/exporters individually examined, excluding any zero, *de minimis*, or rates based entirely on facts available. For the companies for which a review was requested that were not selected as mandatory company respondents, and for which we did not receive a timely request for withdrawal of review, and for which we are not finding to be cross-owned

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<sup>8</sup> Cross-owned affiliates are: Canadian Solar Inc.; Canadian Solar Manufacturing (Luoyang) Inc.; Canadian Solar Manufacturing (Changshu) Inc.; CSI Cells Co., Ltd.; CSI Solar Power (China) Inc.; CSI Solartronics (Changshu) Co., Ltd.; CSI Solar Technologies Inc.; CSI Solar Manufacture Inc. (name was changed to CSI New Energy Holding Co., Ltd. in July 2015); CSI-GCL Solar Manufacturing (Yancheng) Co., Ltd.; Changshu Tegu New Materials Technology Co., Ltd.; Changshu Tlian Co., Ltd.; and Suzhou Sanysolar Materials Technology Co., Ltd. *See* Preliminary Decision Memorandum.

<sup>9</sup> Cross-owned affiliates are: Changzhou Trina Solar Energy Co., Ltd.; Trina Solar (Changzhou) Science and Technology Co., Ltd.; Yancheng Trina Solar Energy Technology Co., Ltd.; Changzhou Trina Solar Yabang Energy Co., Ltd.; Hubei Trina Solar Energy Co., Ltd.; Turpan Trina Solar Energy Co., Ltd.; and Changzhou Trina PV Ribbon Materials Co., Ltd. *See* Preliminary Decision Memorandum.

<sup>10</sup> *See* Appendix II of this notice for a list of all companies that remain under review but were not selected for individual examination, and to whom we have preliminarily assigned the non-selected company rate.

with the mandatory company respondents, we based the subsidy rate on a weighted-average of the subsidy rates calculated for the two mandatory respondents, Canadian Solar Inc. and Changzhou Trina Solar Energy Co., Ltd, using their publicly-ranged sales data for exports of subject merchandise to the United States during the POR. A list of these non-selected companies can be found in Appendix II of notice.

### Disclosure and Public Comment

Commerce will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.<sup>11</sup> Interested parties may submit written comments (case briefs) at a date to be determined by Commerce and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.<sup>12</sup> Rebuttal briefs must be limited to issues raised in the case briefs.<sup>13</sup>

Commerce will notify interested parties when it has determined a deadline for case briefs.

Parties who submit case or rebuttal briefs are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>14</sup>

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system.<sup>15</sup> Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing, which

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<sup>11</sup> See 19 CFR 351.224(b).

<sup>12</sup> See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1). Interested parties will be notified through ACCESS regarding the deadline for submitting case briefs.

<sup>13</sup> See 19 CFR 351.309(d)(2).

<sup>14</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>15</sup> See 19 CFR 351.310(c).

will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined.<sup>16</sup> Parties should confirm by telephone the date, time, and location of the hearing. Issues addressed at the hearing will be limited to those raised in the briefs.<sup>17</sup> All briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time by their respective deadlines.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

#### Assessment Rates and Cash Deposit Requirement

In accordance with 19 CFR 351.221(b)(4)(i), we assigned a subsidy rate for each producer/exporter subject to this administrative review. Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of review. For companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2015, through December 31, 2015, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

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<sup>16</sup> See 19 CFR 351.310.

<sup>17</sup> See 19 CFR 351.310(c).

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 351.221(b)(4).

*Dated: January 2, 2018.*

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P. Lee Smith  
Deputy Assistant Secretary  
for Policy and Negotiations

## **Appendix I**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Partial Rescission of Administrative Review
- IV. Non-Selected Companies Under Review
- V. Scope of the Order
- VI. Application of the Countervailing Duty Law to Imports from China
- VII. Diversification of China's Economy
- VIII. Subsidies Valuation
- IX. Interest Rate Benchmarks, Discount Rates, Inputs, Electricity, and Land Benchmarks
- X. Use of Facts Otherwise Available and Application of Adverse Inferences
- XI. Analysis of Programs
- XII. Verification
- XIII. Disclosure and Public Comment
- XIV. Conclusion

## Appendix II

### Non-Selected Companies Under Review

1. Baoding Jiasheng Photovoltaic Technology Co., Ltd.
2. Baoding Tianwei Yingli New Energy Resources Co., Ltd.
3. Beijing Tianneng Yingli New Energy Resources Co., Ltd.
4. Canadian Solar International, Ltd.
5. Chint Solar (Zhejiang) Co., Ltd.
6. Dongguan Sunworth Solar Energy Co., Ltd.
7. ERA Solar Co., Ltd.
8. ET Solar Energy Limited
9. ET Solar Industry Limited
10. Hainan Yingli New Energy Resources Co., Ltd.
11. Hangzhou Sunny Energy Science and Technology Co., Ltd.
12. Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.
13. Hengdian Group DMEGC Magnetics Co., Ltd.
14. Hengshui Yingli New Energy Resources Co., Ltd.
15. Shanghai JA Solar Technology Co., Ltd.
16. JA Solar Technology Yangzhou Co., Ltd.
17. Jiangsu High Hope Int'l Group
18. Jiawei Solarchina Co., Ltd.
19. Jiawei Solarchina (Shenzhen) Co., Ltd.
20. JingAo Solar Co., Ltd.
21. Jinko Solar Co., Ltd.
22. Jinko Solar Import and Export Co., Ltd.
23. Jinko Solar International Limited
24. Jinko Solar (U.S.) Inc.
25. Lightway Green New Energy Co., Ltd.
26. Lixian Yingli New Energy Resources Co., Ltd.
27. Luoyang Suntech Power Co., Ltd.
28. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
29. Risen Energy Co., Ltd.
30. Shanghai JA Solar Technology Co., Ltd.
31. Shenzhen Glory Industries Co., Ltd.
32. Shenzhen Topray Solar Co., Ltd.
33. Sumec Hardware & Tools Co. Ltd.
34. Systemes Versilis, Inc.
35. Taizhou BD Trade Co., Ltd.
36. tenKsolar (Shanghai) Co., Ltd.
37. Tianjin Yingli New Energy Resources Co., Ltd.
38. Toenergy Technology Hangzhou Co., Ltd.
39. Wuxi Suntech Power Co., Ltd.
40. Yingli Energy (China) Co., Ltd.
41. Yingli Green Energy Holding Company Limited
42. Zhejiang Era Solar Technology Co., Ltd.

43. Zhejiang Jinko Solar Co., Ltd.

44. Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company

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